

WILLIAM R. TAMAYO, REGIONAL ATTORNEY  
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
SAN FRANCISCO DISTRICT OFFICE  
350 THE EMBARCADERO, SUITE 500  
SAN FRANCISCO, CALIFORNIA 94105-1260

JOHN F. STANLEY, SUPERVISORY TRIAL ATTORNEY  
TERI HEALY, SENIOR TRIAL ATTORNEY  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
909 FIRST AVENUE, SUITE 400  
SEATTLE, WA 98104  
Teri.Healy@EEOC.gov  
Tel: (206) 220-6916  
Fax: (206) 220-6911

ATTORNEYS FOR PLAINTIFF

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

BONNEVILLE HOT SPRINGS, INC.,

Defendant.

CIVIL ACTION NO. C07-5321 FDB

**[PROPOSED] CONSENT DECREE**

**EEOC v. BONNEVILLE HOT SPRINGS, INC. CV-07-5321 FDB**  
**[PROPOSED] CONSENT DECREE**  
Page 1 of 13

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Seattle Field Office  
909 First Avenue, Suite 400  
Seattle, Washington 98104-1061  
Telephone: (206) 220-6885  
Facsimile: (206) 220-6911  
TDD: (206) 220-6882

I. INTRODUCTION

1. This action originated with discrimination Charge No. 380200502623, filed by Christina Sibbett with the EEOC on or about November 30, 2005. Ms. Sibbett alleged that Bonneville Hotsprings Inc., (“BHS”) discriminated on the basis of sex by subjecting her to sexual harassment, in violation of Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), 42 U.S.C. § 2000e *et seq.* In addition, Ms. Sibbett alleges that BHS retaliated against her when she complained about harassment, in violation of Section 704 of Title VII, 42 USC § 2000e-3.

2. The EEOC issued a letter of determination on January 4, 2007 with a finding of reasonable cause to believe that BHS violated Title VII by subjecting Ms. Sibbett and also a class of similarly situated female employees to a hostile work environment because of their sex, and by retaliating against Sibbett by further harassing and eventually terminating her for complaining about the harassment.

3. The EEOC filed this lawsuit on July 5, 2007 in the United States District Court for the Western District of Washington, on behalf of Ms. Sibbett and similarly situated female employees, alleging harassment based on sex, and retaliation relating to Ms. Sibbett.

4. The parties want to conclude fully and finally all claims arising out of the EEOC’s complaint, its Letters of Determination, and the charges of discrimination filed with the EEOC.

The EEOC and BHS enter into this Consent Decree to further the objectives of equal employment opportunity as set forth in Title VII.

**II. NONADMISSION OF LIABILITY AND NONDETERMINATION  
BY THE COURT**

5. This Consent Decree is not an adjudication or finding on the merits of this case and shall not be construed as an admission by Defendant of a violation of Title VII.

**III. JURISDICTION AND VENUE**

6. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3), Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a, and Section 704 of Title VII, 42 USC § 2000e-3. The employment practices alleged to be unlawful in the EEOC's complaint filed herein occurred within the jurisdiction of the United States District Court for the Western District of Washington.

**IV. SETTLEMENT SCOPE**

7. This Consent Decree is the final and complete resolution of all claims arising out of the Commission's complaint filed herein, the underlying charge filed by Sibbett, 380-2005-02623 and all claims arising out of charge Nos. 551-2005-01447 (pre-consolidation number 380-2005-01447) and 38G-2005-00253 and the EEOC's administrative determinations. The Consent Decree resolves all issues and claims arising out of the complaint and these charges including, all

claims by the parties for attorney fees and costs, and is binding and final as to all such issues and claims.

#### V. MONETARY RELIEF

8. In settlement of this lawsuit, BHS agrees to pay a total of \$470,000.00 to individuals named by the EEOC. Of this amount, \$300,000.00 must be paid on or before September 17, 2008. The remaining \$170,000.00 must be paid on or before December 16, 2008. Payment shall be effected by sending, via certified mail, a settlement check to addresses to be provided, with copies to the EEOC. There will be a settlement fund established out of the total remaining sum and final determination of payment to the individual class members from the settlement fund shall follow the procedures as described below in Section VI.

#### VI. ADMINISTRATION OF CLASS SETTLEMENT

9. A Potential Claimant is defined as any employee who was sexually harassed by Pete Cam or Ken Favala between May 27, 2004 and August 12, 2008.

10. A Successful Claimant is defined as a Potential Claimant who presents credible evidence that s/he was subjected to sexual or gender-based harassment at BHS between the dates of May 27, 2004 and August 12, 2008. Further, a Successful Claimant must meet all deadline and claim requirements as set forth in this Consent Decree. The Successful Claimant will be required to present credible evidence, which will include her own sworn statement, to establish such sexual or gender-based harassment.

11. The EEOC will determine who the Successful Claimants are based upon the criterion outlined in Paragraph 10 and the share of the settlement fund each such person will receive. The determination by the EEOC shall be binding upon the parties.

12. The Potential Claimants will be sent a Notice to Potential Claimants (“Notice”) which will include a description of the charges against BHS, a definition of Potential Claimants, a summary of the settlement reached, and the criteria for determination of who will qualify as a Successful Claimant. It will also include a list of examples of sexual or gender-based harassment. The Notice will also contain a description and explanation of the deadlines and other claim requirements and will include an Application Form to be completed by each Potential Claimant which will assist in the presentation of her prima facie evidence of sexual or gender-based harassment. The Notice and Claim form to be used are attached hereto as Exhibits A and B.

13. Deadlines and claim requirements are as follows:

- a. Within 10 days of the entry of this Consent Decree EEOC will mail, return receipt requested, copies of the Notice and Application Form to all Potential Claimants. The mailing will include a stamped, return address envelope with the EEOC’s Seattle Field Office address.
- b. Potential Claimants will have thirty (30) days to respond by returning a completed Application Form to the EEOC.

c. If the original Notice mailed is forwarded to a Potential Claimant by the Post Office, then that individual will be provided with an additional thirty (30) days to respond.

d. If the original Notice mailed is returned as undeliverable, EEOC will have fifteen (15) days to research and update the Potential Claimant's address and re-mail the documents. Re-mailing the Notice and Application Form will provide another thirty (30) day response deadline.

e. Within ten (10) days of receiving the last Potential Claimant response, the EEOC will provide BHS with a list identifying each Successful Claimant whom the EEOC has determined presented a prima facie case pursuant to the criteria outlined in this Consent Decree. The identity of unsuccessful claimants will also be provided at this time.

f. At the time it notifies BHS of the list of unsuccessful and successful claimants, the EEOC will notify each claimant as to whether her application was successful or not, and if so, the amount she will be awarded from the settlement fund.

Successful claimants will be notified that the receipt of settlement proceeds will require the execution of the release attached hereto as Exhibit C and its return.

g. Payment by BHS to the Successful Claimants will be made within fourteen (14) days from the date Defendant is notified that the EEOC has received the signed release.

h. Upon proof of payment to the successful claimant, the EEOC will send the a copy of the signed releases to counsel for BHS.

i. In the event that a successful claimant does not execute the release, EEOC will distribute the sum to Members of the class, remaining claimants or intervening plaintiffs as the EEOC sees fit.

## **VII. INJUNCTIVE AND OTHER RELIEF**

### **A General Provisions**

14. BHS, its officers, agents, managers, assistant managers and other supervisors and all human resource professionals who provide advice and assistance to these individuals are enjoined from engaging in practices which constitute harassment based on an employee's sex.

15. BHS, its officers, agents, managers, assistant managers and other supervisors and all human resource professionals who provide advice and assistance to these individuals are further enjoined from retaliating against any applicant or employee for opposing a practice deemed unlawful by Title VII or for making a charge, testifying, assisting, or participating in any investigation, proceeding, or hearing associated with this action. In recognition of obligations

under Title VII, BHS shall institute the policies and practices set forth below at its Washington facility located at 1252 East Cascade Drive North, North Bonneville, WA, 98639.

B. Anti-Discrimination Policies and Procedures

16. BHS shall carry out anti-discrimination policies, procedures and training for employees, supervisors and management personnel and shall provide equal employment opportunities for all employees consistent with its obligations under the law. BHS shall ensure that the practices of its managers and supervisors are consistent with the obligations of this paragraph, and compliance with BHS policies will be considered in the performance evaluations of management personnel.

17. Within sixty (60) days of the date of the effective date of this Consent Decree, BHS shall provide to the EEOC: (a) an EEO policy which addresses BHS's obligation to provide a work environment free of harassment, discrimination, and retaliation for its employees, and states its commitment not to retaliate against any employee for engaging in protected EEO activity; and (b) confirmation that it distributed its EEO policy to all present employees and will distribute it to all future employees, both management and non-management, for the duration of this Decree.

C. Training

18. Within sixty (60) days of the execution of this Consent Decree, BHS shall present to all employees, managers, assistant managers, and supervisors, no less than two (2) hours of



face-to-face training by a qualified trainer on harassment, employment discrimination, and retaliation for engaging in protected EEO activity. The EEOC shall have an opportunity to view the training materials prior to the training date.

Annually thereafter, for the life of this Consent Decree, BHS shall require: (1) all employees, managers, assistant managers and supervisors, and a designated corporate headquarters human resource representative, to complete three (3) hours of face-to-face training by a qualified trainer on harassment, employment discrimination and retaliation.

D. Reference Requests

19. BHS is enjoined from disclosing any information about, or making reference to, any charge of discrimination that is the subject of this lawsuit in responding to employment reference requests for information about the recipients of settlement funds named by the EEOC. Rather, it shall provide only the employment dates and position title in response to reference requests for those named individuals.

E. Policies Designed to Promote Supervisor Accountability

20. BHS shall advise all managers and supervisors of their duty to ensure compliance with its EEO policies, and to report any incident or complaint of harassment, discrimination, or retaliation, of which they become aware. BHS shall also advise all managers and supervisors that if a manager or supervisor violates BHS's EEO policies, he/she may be subject to discipline up to and including termination and compensation may be affected.

21. BHS agrees that it shall include “commitment to equal employment opportunity” or similar designation as a criterion for promotion to, or evaluation of, supervisory positions.

F. Reporting

22. BHS shall report in declaration form to the EEOC beginning six (6) months from the date of the entry of this Decree, and thereafter every six months for the duration of the decree the following information:

- a. Certification of the completion of training and list of attendees set forth in Paragraph 13 above, and a list of all attendees including job titles.
- b. Certification that its EEO policy has been sent to all current and newly hired employees as described in Paragraph 12 above.
- c. A copy of its EEO policy and a list of any changes, modifications, revocations or revisions to its EEO policies and procedures which concern or affect the subject of discrimination and retaliation; and
- d. A summary of all harassment, discrimination and retaliation complaints, if any, filed by employees, identified by name, and the resolution of each complaint.

G. Posting

23. BHS shall post a Notice, attached as Exhibit D to this Consent Decree. The Notice shall be posted on a centrally located bulletin board or other place where such notices are normally posted and read by employees for the duration of the Consent Decree.

### VIII. ENFORCEMENT

24. If the EEOC determines that BHS has not complied with the terms of this Decree, the EEOC shall provide written notification of the alleged breach to BHS. The EEOC shall not petition the Court for enforcement of the Decree for at least thirty (30) days after providing written notification of the alleged breach. The 30-day period following the written notice shall be used by the parties for good faith efforts to resolve the dispute, or for BHS to cure the breach. In those cases where it would take longer than thirty (30) days to cure the breach, BHS may have such additional time as may be necessary by agreement with the EEOC so long as BHS takes all reasonable efforts to cure the breach within the thirty (30) day period.

### IX. RETENTION OF JURISDICTION

25. The United States District Court for the Western District of Washington shall retain jurisdiction over this matter for the duration of the Decree.

### X. DURATION AND TERMINATION

26. This Decree shall be in effect for three (3) years from the date the Court enters this Decree. If the EEOC petitions the Court for breach of the Decree, and the Court finds BHS to be in violation of the terms of the Decree, the Court may extend the duration of the Decree.

### XI. CONCLUSION

27. The parties are not bound by any provision of this decree until it is signed by authorized representatives of each party and is entered by the Court.

Dated this \_\_\_\_ day of \_\_\_\_, 2008.

BY: \_\_\_\_\_

WILLIAM TAMAYO  
Regional Attorney  
San Francisco District Office  
350 The Embarcadero, Suite 500  
San Francisco, California 94105-1260

JOHN F. STANLEY  
Supervisory Trial Attorney  
TERI HEALY  
Sr. Trial Attorney  
Seattle Field Office  
909 First Avenue, Suite 400  
Seattle, Washington 98104  
Ph. (206) 220-6916  
Fax (206) 220-6911  
[Teri.Healy@EEOC.gov](mailto:Teri.Healy@EEOC.gov)

Attorneys for Plaintiff EEOC

BY: \_\_\_\_\_

[name]  
[address]  
[email]  
[Phone]  
[Fax]

Attorney for Defendant

**EEOC v. BONNEVILLE HOT SPRINGS, INC. CV-07-5321 FDB**  
**[PROPOSED] CONSENT DECREE**  
Page 12 of 13

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Seattle Field Office  
909 First Avenue, Suite 400  
Seattle, Washington 98104-1061  
Telephone: (206) 220-6885  
Facsimile: (206) 220-6911  
TDD: (206) 220-6882

## **ORDER APPROVING CONSENT DECREE**

The Court having considered the foregoing stipulated agreement of the parties,

IT IS HEREBY ORDERED THAT the foregoing Consent Decree be, and the same hereby is, approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees to any party. The Court retains jurisdiction of this matter for purposes of enforcing the Consent Decree approved herein.

---

UNITED STATES DISTRICT COURT JUDGE